

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

FERNANDO SHAH,

No. 2:21-cv-0232 AC P

Petitioner,

v.

ALPINE COUNTY SUPERIOR COURT,

ORDER AND FINDINGS &
RECOMMENDATIONS

Respondent.

Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. By order filed February 9, 2021, the undersigned found that the petition failed to state a cognizable habeas claim and gave petitioner the option of either voluntarily dismissing the petition or converting this action to a civil rights complaint. ECF No. 7. In the event petitioner chose to convert the action, he was required to submit an amended complaint that named a proper party and either an application to proceed in forma pauperis or the remaining \$396.00 in filing fees. *Id.* at 2. The time for responding to the order has passed, and petitioner has taken no action. The court therefore assumes that petitioner has chosen to stand on his original habeas petition.

As set forth in the February 9, 2021 order, petitioner fails to state a cognizable habeas claim. Federal habeas corpus relief is available only for challenges to the duration or legality of a prisoner's confinement. Preiser v. Rodriguez, 411 U.S. 475, 500 (1973). In this case, the relief

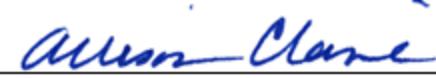
1 petitioner appears to seek is the return of or compensation for his vehicle and to have his arrest
2 records cleared, ECF No. 1 at 2, 7, both of which fall outside the scope of habeas.

3 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall randomly
4 assign a United States District Judge to this action.

5 IT IS FURTHER RECOMMENDED that petitioner's application for a writ of habeas
6 corpus be dismissed.

7 These findings and recommendations are submitted to the United States District Judge
8 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
9 after being served with these findings and recommendations, any party may file written
10 objections with the court and serve a copy on all parties. Such a document should be captioned
11 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
12 objections shall be filed and served within fourteen days after service of the objections. The
13 parties are advised that failure to file objections within the specified time may waive the right to
14 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

15 DATED: March 12, 2021

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17 ALLISON CLAIRE
18 UNITED STATES MAGISTRATE JUDGE

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